

§ 222.121

(a) The LEA documents that it has received a written statement from the affected Indian tribe or tribes that the LEA need not comply with section 8004 (a) and (b) of the Act, because the affected Indian tribe or tribes is satisfied with the provision of educational services by the LEA to the children claimed on the LEA's application for assistance under section 8003 of the Act.

(b) The Assistant Secretary receives from the affected Indian tribe or tribes a written request that meets the requirements of § 222.121 not to withhold payments from an LEA.

(c) The Assistant Secretary, on the basis of documentation provided by the LEA, determines that withholding payments during the course of the school year would substantially disrupt the educational programs of the LEA.

(d)(1) The affected Indian tribe or tribes elects to have educational services provided by the Bureau of Indian Affairs under section 1101(d) of the Education Amendments of 1978.

(2) For an LEA described in paragraph (d)(1) of this section, the Secretary recalculates the section 8003 payment that the LEA is otherwise eligible to receive to reflect the number of students who remain in attendance at the LEA.

(Authority: 20 U.S.C. 7703(a), 7704(c), (d)(2) and (e)(8))

§ 222.121 How does the affected Indian tribe or tribes request that payments to a local educational agency not be withheld?

(a) The affected Indian tribe or tribes may submit to the Assistant Secretary a formal request not to withhold payments from an LEA.

(b) The formal request must be in writing and signed by the tribal chairman or authorized designee.

(Authority: 20 U.S.C. 7704 (d)(2) and (e)(8))

§ 222.122 What procedures are followed if it is determined that the local educational agency's funds will not be withheld under this subpart?

If the Secretary determines that an LEA's payments will not be withheld under this subpart, the Assistant Secretary notifies the LEA and the af-

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affected Indian tribe or tribes, in writing, by certified mail with return receipt requested, of the reasons why the payments will not be withheld.

(Authority: 20 U.S.C. 7704 (d)–(e))

222.123–222.129 [Reserved]

Subpart H [Reserved]

Subpart I—Facilities Assistance and Transfers Under Section 8008 of the Act

§ 222.140 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions apply to this subpart:

Minimum school facilities means those school facilities for which the Secretary may provide assistance under this part as follows:

(1) The Secretary, after consultation with the State educational agency and the local educational agency (LEA), considers these facilities necessary to support an educational program—

(i) For the membership of students residing on Federal property to be served at normal capacity; and

(ii) In accordance with applicable Federal and State laws and, if necessary or appropriate, common practice in the State.

(2) The term includes, but is not restricted to—

(i) Classrooms and related facilities; and

(ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

Providing assistance means constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities.

(Authority: 20 U.S.C. 7708)

§ 222.141 For what types of projects may the Secretary provide assistance under section 8008 of the Act?

The types of projects for which the Secretary may provide assistance under section 8008 of the Act during any given year include, but are not restricted to, one or more of the following: